

PROPOSITION NUMBER 4

☐ FOR
☐ AGAINST

Shall a law be enacted to:

- create a seven-member commission to recommend redistricting plans to the Legislature that divide the state into Congressional, legislative, and state school board districts;
- provide for appointments to that commission: one by the Governor, three by legislative majority party leaders, and three by legislative minority party leaders;
- provide qualifications for commission members, including limitations on their political activity;
- require the Legislature to enact or reject a commission-recommended plan; and
- establish requirements for redistricting plans and authorize lawsuits to block implementation of a redistricting plan enacted by the Legislature that fails to conform to those requirements?

IMPARTIAL ANALYSIS

Background

The state is divided into different types of districts for electing different officers. There are districts for electing representatives to the U.S. House of Representatives, districts for electing members to the Utah Legislature, and districts for electing representatives to the State Board of Education. Under federal constitutional law requiring one person's voting power to be roughly the same as another person's, each type of district is required to have at least a roughly equal population as each other district of that type.

Every 10 years, the federal government conducts a census to count the population of each state. During the 10-year period from one census to the next, the population of the state shifts, resulting in unequal populations within the various districts. Following each census, the Legislature redefines the boundaries of those districts to ensure roughly equal populations within the districts. This redefining of district boundaries is commonly referred to as "redistricting."

Proposition 4

Proposition 4 affects redistricting in Utah in three main ways: (1) it creates a seven-member appointed commission to participate in the process of formulating redistricting plans; (2) it imposes requirements on the Legislature's redistricting process; and (3) it establishes standards with which redistricting plans must comply.

1. Redistricting Commission

Current Law

The Utah Constitution states that "the Legislature shall divide the state" into districts. Current Utah law does not provide for the involvement of a commission or any other group in the redistricting process.

Effect of Proposition 4

Proposition 4 creates the "Utah Independent Redistricting Commission," with responsibility to recommend redistricting plans to the Legislature. The redistricting commission consists of seven members. One member is appointed by each of the following:

- the governor;
- the president of the Utah Senate;
- the speaker of the Utah House of Representatives;
- the leader of the largest minority political party in the Utah Senate;
- the leader of the largest minority political party in the Utah House of Representatives;
- Utah Senate and House leadership of the political party that is the majority party in the Utah Senate; and
- Utah Senate and House leadership of the political party that is the largest minority party in the Utah Senate.

Under Proposition 4, a person may not be appointed to the commission if the person has engaged in certain political activity during the four or, in some cases, five years before appointment. The Proposition also places limitations on certain political activity of commission members during their service on the commission and for four years afterwards.

Proposition 4 establishes a process for the commission to follow in recommending redistricting plans. Among other things, the Proposition requires the commission to:

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- make redistricting plans available to the public and hold public hearings; and
- assess whether redistricting plans comply with standards established by Proposition 4.

If the commission fails to submit redistricting plans to the Legislature by a specified deadline, the Utah Supreme Court chief justice is required to select plans for the commission to submit.

2. Legislature's Redistricting Process

Current Law

Under current law, the Legislature performs redistricting according to a process it defines internally, with no limitations or requirements imposed by state law. The Legislature's past redistricting process has included opportunities for the public to submit redistricting plans, a legislative redistricting committee to adopt redistricting standards and recommend plans, the posting of plans on the Legislature's website, and public hearings around the state.

Effect of Proposition 4

Proposition 4 places requirements on the process that the Legislature uses to enact redistricting plans, including limits on when and the circumstances under which the Legislature may enact a redistricting plan.

Proposition 4 requires the Legislature to enact or reject a plan that the commission submits but does not limit the Legislature from enacting its own separate plan. The commission may require a plan being considered by the Legislature to undergo a commission assessment to determine whether it complies with standards established by the Proposition. If the Legislature enacts a plan other than one submitted by the commission, the Proposition requires the Legislature to publicly issue a detailed written report explaining why.

3. Standards Applicable to Redistricting Plans

Current Law

Redistricting plans enacted by the Legislature are required to comply with certain provisions of federal law, including a requirement that districts have roughly equal populations. Utah law does not specify additional standards with which redistricting plans must comply.

Effect of Proposition 4

Proposition 4 requires commission-recommended or Legislature-enacted redistricting plans, as much as possible, to:

- minimize the division of counties, cities, and towns;
- create districts that are geographically compact and in one unbroken piece;
- preserve traditional neighborhoods and local communities;
- follow natural and geographic features; and
- maximize boundary agreement among different types of districts.

The Proposition also prohibits the commission or Legislature from favoring or disfavoring incumbent elected officials or from considering partisan political information.

The Proposition authorizes any Utah resident to file a lawsuit requesting a court to block implementation of a redistricting plan enacted by the Legislature that fails to conform to the standards and requirements established by Proposition 4.

Potential Constitutional Conflicts

Proposition 4 raises the following potential conflicts with the United States Constitution or Utah Constitution:

- restricting former commission members from engaging in certain political activity after serving on the commission may conflict with freedom of speech and association guarantees of the First Amendment to the United States Constitution and similar guarantees under Article I, Sections 1 and 15 of the Utah Constitution;
- directing the Utah Supreme Court chief justice to select redistricting plans to recommend to the Legislature may violate separation of powers principles under Article V, Section 1 of the Utah Constitution; and
- requiring redistricting plans enacted by the Legislature to comply with certain standards and imposing other restrictions on the Legislature's redistricting process may violate Article IX, Section 1 of the Utah Constitution.

Fiscal Impact

The legislative fiscal analyst estimates that implementing Proposition 4 may cost the state \$1,015,500 every 10 years for commission and other redistricting-related expenses. The state may incur additional costs to defend lawsuits authorized by the Proposition.

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ARGUMENT IN FAVOR

VOTE "YES" ON PROPOSITION 4

Voters should choose their representatives, not vice versa.

Yet under current law, Utah politicians can choose their voters. Legislators draw their own legislative districts with minimal transparency, oversight, or checks on inherent conflicts of interest. As a result, politicians wield unbridled power to design districts to ensure their own re-election. This is called "gerrymandering."

Gerrymandering is not new. But in recent years it has gotten out of control. Sophisticated computer modeling allows incumbents to craft districts with a precision the framers of the Utah Constitution could not have foreseen. Incumbents of both parties do this, with the result that Utah is divided into districts that empower politicians, not voters.

For example, Holladay City is splintered into four State House districts, two State Senate districts and two Congressional districts. Who benefits from this? Holladay voters don't, but politicians do. Incumbents in safe districts are less responsive to voters and more responsive to special interests. In short, gerrymandering makes representative democracy less representative.

To be fair, we can't expect legislators to fix the system. It benefits them. We the People must fix it.

Proposition 4 returns power to the voters and puts people first in our political system. It does this by enacting the Utah Independent Redistricting Commission and Standards Act. The Act addresses the problem of gerrymandering in two ways.

First, it creates a seven-member Independent Redistricting Commission. The Governor and Legislative leaders appoint the Commissioners, at least two of whom must be politically unaffiliated. To promote impartiality, lobbyists, current and recently retired elected officials, political party leaders, and government appointees may not serve as Commissioners. With citizen input, the Commission draws proposed district boundaries for Utah's congressional, legislative, and State school board districts. It then submits these electoral maps to the Legislature as required by the Utah Constitution. The Legislature can enact or reject the Commission's proposed maps. If it rejects them, it must explain why to the citizens.

Second, the Act requires that, in drawing districts, the Commission and the Legislature abide by common-sense redistricting standards to the greatest extent practicable. These standards include:

- Adhering to the U.S. and Utah Constitutions and other applicable law
- Preserving equal populations among districts
- Keeping municipalities and counties together
- Creating districts that are compact and contiguous
- Respecting traditional neighborhoods and communities of interest
- Following geographic features and natural barriers

Most importantly, the Act forbids drawing districts to unduly favor or disfavor any incumbent, candidate, or political party. And it allows Utah voters to challenge a map enacted by the Legislature that violates these standards.

By placing common-sense limits on politicians' power to design their districts, Proposition 4 will ensure that our representative government serves people, not politicians. It will make the redistricting process more transparent, increase voter participation, and make the politicians we elect more responsive and accountable to the people who elect them.

In short, it will ensure that Utah voters have a government of the People, by the People, and for the People.

Uthans for Responsive Government/Better Boundaries

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REBUTTAL TO ARGUMENT IN FAVOR

Proposition 4 sponsors' best argument seems to be that giving an unelected commission authority in the redistricting process will result in a more accountable government. If that is true, it must be done by a constitutional amendment and not by an initiative petition.

In 2011 the legislative redistricting committee held over thirty public, open, and transparent meetings throughout the state. They received and considered hundreds of public comments and even provided a dedicated website for citizens to draw, submit, and comment on maps.

Backed by Ralph Becker and other liberal Salt Lake City Democrats and funded by out of state interest groups, Proposition 4 is a cleverly disguised partisan power grab.

- It unconstitutionally gives redistricting authority to unelected bureaucrats and judges.
- It deliberately imposes vague and conflicting redistricting requirements to throw the doors wide open for lawsuits.
- 4 out of 5 of its sponsors are liberal Democrats from Salt Lake City (if you include the one who became Republican right before sponsoring).
- 70% of the nearly \$1 Million behind the initiative are from OUT OF STATE special interest groups.
- Over half of the in-state donations came from inside of Salt Lake City proper.

The framers of the Utah Constitution ensured that redistricting would be anchored in the voice of the people by exclusively entrusting this authority to the legislature.

A vote for Proposition 4 is a vote to unconstitutionally silence the voice of the majority of people in Utah and allow unelected bureaucrats and judges redistricting authority

Senator Ralph Okerlund
Utah State Senate

ARGUMENT AGAINST

Proposition 4 is a cleverly disguised partisan plan to stifle the voice of the people of Utah as represented by the Legislature and unconstitutionally create an overwhelmingly Democrat congressional district around Salt Lake City.

Violates the Constitution

Inspired by the framers of our United States Constitution, the founders of Utah divided governmental power into three separate branches of government – the Executive, the Legislative, and the Judicial. The founders thought it was important to grant the legislature the *exclusive* authority over the redistricting process.

Proposition 4 blatantly violates the Utah Constitution by creating a redistricting commission and granting that commission and the Utah Supreme Court a role in the redistricting process. If we, as citizens of Utah, wish to grant this legislative authority to other branches of government, we must do it through a constitutional amendment not an initiative petition.

The Perfect Legal Storm

Over the past few redistricting cycles there have been hundreds of redistricting lawsuits in at least 40 states. In that time, not a single successful case has been brought against Utah due to our transparent, fair, and strictly constitutional redistricting process.

Proposition 4 deliberately imposes vague and conflicting redistricting requirements, it leaves multiple key terms undefined, and it grants any person or business with a Utah address the right to legally challenge redistricting plans. These provisions reveal the obvious underlying goal of this initiative is to create a perfect legal storm for lengthy lawsuits that result in the courts unconstitutionally redrawing district boundaries.

Better Boundaries for Whom?

District boundaries are redrawn by the legislature every ten years following the census to ensure that every district is represented by the same number of people. Because Utah's population is growing – the growth in each district must be averaged out. This means slower growing districts must have boundaries that expand, while the surrounding faster growing districts must have boundaries that shrink.

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This is precisely what is happening in and around Salt Lake City. Due to their significantly slower population growth rates, district boundaries around Salt Lake City must expand to gain population while the surrounding districts shrink to average out. Despite being their last strong-hold in the state, it is inevitable that these current growth patterns will continue to water-down Democrat representation. Faced with this fact, proponents of Proposition 4 are desperately trying to maintain and even increase their representation by creating an overwhelmingly Democrat district insulated from the rest of the state.

Appropriately named by its Salt Lake City Democrat supporters, the “Better Boundaries Initiative,” begs the question: better boundaries for whom? Themselves.

Conclusion

Make no mistake about it, the backers of this initiative are *not* seeking to create a transparent, fair, and constitutionally sound redistricting process – we already have that. They are seeking to unconstitutionally pack what is now a competitive congressional district with Democrat voters to create a single, safe, and solidly Democrat congressional district for themselves.

Do not be fooled. Vote against Proposition 4.

Senator Ralph Okerlund
Utah State Senate
248 S 500 W
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REBUTTAL TO ARGUMENT AGAINST

Utah voters should not be surprised that the statement against Proposition 4 comes from a politician. Politicians are the only folks that benefit from gerrymandering. The current system presents a clear conflict of interest.

The opposition statement is also misleading; let’s focus on the facts.

First, Proposition 4 is a bi-partisan effort, led by members of both major parties. Over 190,000 Utahns from all across the State signed the petition, and polling shows that a majority of Utahns support it.

Second, Utahns overwhelmingly support Proposition 4 because it creates a transparent process. It favors no party or outcome. It merely creates sensible rules so that *no one* can rig the system.

Third, the State Constitution does not say our Legislature has “exclusive” authority to draw electoral maps. Proposition 4 is carefully designed to operate within the framework established by the Utah and U.S. Constitutions.

Fourth, the speculation that this Proposition will encourage litigation is misleading. Proposition 4 enacts common-sense redistricting standards. A map that respects those standards is unlikely to provoke baseless litigation, especially since the initiative also contains provisions to discourage frivolous lawsuits.

The fight against gerrymandering is about patriotism, not party. Ronald Reagan called gerrymandering an “un-American practice” contrary to “American values of fair play and decency.”

That’s why 18 other states have adopted some form of an independent redistricting commission. We need to end gerrymandering here in Utah once and for all. Don’t be distracted by misleading statements and scare tactics.

Vote for Proposition 4.

Jeff Wright and Ralph Becker
Co-Chairs, Better Boundaries

FULL TEXT OF PROPOSITION 4

Be it Enacted by the People of the State of Utah:

Section 1. Section **20A-19-101** is enacted to read:

CHAPTER 19. UTAH INDEPENDENT REDISTRICTING COMMISSION AND STANDARDS ACT

Part 1. General Provisions

20A-19-101. Title.

This chapter is known as the “Utah Independent Redistricting Commission and Standards Act.”

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Section 2. Section **20A-19-102** is enacted to read:

20A-19-102. Permitted Times and Circumstances for Redistricting.

Division of the state into congressional, legislative, and other districts, and modification of existing divisions, is permitted only at the following times or under the following circumstances:

- (1) no later than the first annual general legislative session after the Legislature's receipt of the results of a national decennial enumeration made by the authority of the United States;
- (2) no later than the first annual general legislative session after a change in the number of congressional, legislative, or other districts resulting from an event other than a national decennial enumeration made by the authority of the United States;
- (3) upon the issuance of a permanent injunction by a court of competent jurisdiction under Section 20A-19-301(2) and as provided in Section 20A-19-301(8);
- (4) to conform with a final decision of a court of competent jurisdiction; or
- (5) to make minor adjustments or technical corrections to district boundaries.

Section 3. Section **20A-19-103** is enacted to read:

20A-19-103. Redistricting Standards and Requirements.

- (1) This Section establishes redistricting standards and requirements applicable to the Legislature and to the Utah Independent Redistricting Commission.
- (2) The Legislature and the Commission shall abide by the following redistricting standards to the greatest extent practicable and in the following order of priority:
 - (a) adhering to the Constitution of the United States and federal laws, such as the Voting Rights Act, 52 U.S.C. Secs. 10101 through 10702, including, to the extent required, achieving equal population among districts using the most recent national decennial enumeration made by the authority of the United States;
 - (b) minimizing the division of municipalities and counties across multiple districts, giving first priority to minimizing the division of municipalities and second priority to minimizing the division of counties;
 - (c) creating districts that are geographically compact;
 - (d) creating districts that are contiguous and that allow for the ease of transportation throughout the district;
 - (e) preserving traditional neighborhoods and local communities of interest;
 - (f) following natural and geographic features, boundaries, and barriers; and
 - (g) maximizing boundary agreement among different types of districts.

(3) The Legislature and the Commission may not divide districts in a manner that purposefully or unduly favors or disfavors any incumbent elected official, candidate or prospective candidate for elective office, or any political party.

(4) The Legislature and the Commission shall use judicial standards and the best available data and scientific and statistical methods, including measures of partisan symmetry, to assess whether a proposed redistricting plan abides by and conforms to the redistricting standards contained in this Section, including the restrictions contained in Subsection (3).

(5) Partisan political data and information, such as partisan election results, voting records, political party affiliation information, and residential addresses of incumbent elected officials and candidates or prospective candidates for elective office, may not be considered by the Legislature or by the Commission, except as permitted under Subsection (4).

(6) The Legislature and the Commission shall make computer software and information and data concerning proposed redistricting plans reasonably available to the public so that the public has a meaningful opportunity to review redistricting plans and to conduct the assessments described in Subsection (4).

Section 4. Section **20A-19-104** is enacted to read:

20A-19-104. Severability.

- (1) The provisions of this chapter are severable.
- (2) If any word, phrase, sentence, or section of this chapter or the application of any word, phrase, sentence, or section of this chapter to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remainder of this chapter must be given effect without the invalid word, phrase, sentence, section, or application.

Section 5. Section **20A-19-201** is enacted to read:

Part 2. Utah Independent Redistricting Commission

20A-19-201. Utah Independent Redistricting Commission – Selection of Commissioners – Qualifications – Term – Vacancy – Compensation – Commission Resources.

- (1) This Act creates the Utah Independent Redistricting Commission.
- (2) The Utah Independent Redistricting Commission comprises seven commissioners appointed as provided in this Section.
- (3) Each of the following appointing authorities shall appoint one commissioner:
 - (a) the governor, whose appointee shall serve as Commission chair;
 - (b) the president of the Senate;
 - (c) the speaker of the House of Representatives;
 - (d) the leader of the largest minority political party in the Senate;
 - (e) the leader of the largest minority political party in the House of Representatives;
 - (f) the leadership of the majority political party in the Senate, including the president of the Senate, jointly with the leadership of the same political party in the House of Representatives and the speaker of the House of Representatives if a member of that political party; and
 - (g) the leadership of the largest minority political party in the Senate jointly with the leadership of the same political party in the House of Representatives and the speaker of the House of Representatives if a member of that political party.
- (4) The appointing authorities described in Subsection (3) shall appoint their commissioners no later than 30 calendar days following:
 - (a) the receipt by the Legislature of a national decennial enumeration made by the authority of the United States; or
 - (b) a change in the number of congressional, legislative, or other districts resulting from an event other than a national decennial enumeration made by the authority of the United States.
- (5) Commissioners appointed under Subsection (3)(f) and Subsection (3)(g), in addition to the qualifications and conditions in Subsection (6), may not have at any time during the preceding five years:
 - (a) been affiliated with any political party for the purposes of Section 20A-2-107;
 - (b) voted in any political party's regular primary election or any political party's municipal primary election; or
 - (c) been a delegate to a political party convention.
- (6) Each commissioner:
 - (a) must have been at all times an active voter, as defined in Section 20A-1-102(1), during the four years preceding appointment to the Commis-

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sion:

(b) must not have been at any time during the four years preceding appointment to the Commission, and may not be during their service as commissioner or for four years thereafter:

- (i) a lobbyist or principal, as those terms are defined under Section 36-11-102;
- (ii) a candidate for or holder of any elective office, including any local government office;
- (iii) a candidate for or holder of any office of a political party, excluding the office of political party delegate, or the recipient of compensation in any amount from a political party, political party committee, personal campaign committee, or any political action committee affiliated with a political party or controlled by an elected official or candidate for elective office, including any local government office;
- (iv) appointed by the governor or the Legislature to any other public office; or
- (v) employed by the Congress of the United States, the Legislature, or the holder of any position that reports directly to an elected official or to any person appointed by the governor or Legislature to any other public office.

(7)(a) Each commissioner shall file with the Commission and with the governor a signed statement certifying that the commissioner:

- (i) meets and will continue to meet throughout their term as commissioner the applicable qualifications contained in this Section;
- (ii) will comply with the standards, procedures, and requirements applicable to redistricting contained in this chapter;
- (iii) will faithfully discharge the commissioner's duties in an independent, honest, transparent, and impartial manner; and
- (iv) will not engage in any effort to purposefully or unduly favor or disfavor any incumbent elected official, candidate or prospective candidate for elective office, or any political party.

(b) The Commission and the governor shall make available to the public the statements required under Subsection (7)(a).

(8)(a) A commissioner's term lasts until a successor is appointed or until that commissioner's death, resignation, or removal.

(b) A commissioner may resign at any time by providing written notice to the Commission and to the governor.

(c) A commissioner may be removed only by a majority vote of the speaker of the House of Representatives and the leader of the largest minority political party in the House of Representatives and the president of the Senate and leader of the largest minority political party in the Senate, and may be removed only for failure to meet the qualifications of this Section, incapacity, or for other good cause, such as substantial neglect of duty or gross misconduct in office.

(9)(a) The appointing authority that appointed a commissioner shall fill a vacancy caused by the death, resignation, or removal of that commissioner within 21 calendar days after the vacancy occurs.

(b) If the appointing authority at the time of the vacancy is of a different political party than that of the appointing authority when the original appointment was made, then the corresponding appointing authority of the same political party in the Senate, the House, or the leadership, as the case may be, as the appointing authority that made the original appointment must make the appointment to fill the vacancy.

(10) If an appointing authority fails to appoint a commissioner or to fill a vacancy by the deadlines provided in this Section, then the chief justice of the Supreme Court of the State of Utah shall appoint that commissioner within 14 calendar days after the failure to appoint or fill a vacancy.

(11)(a) Commissioners may not receive compensation or benefits for their service, but may receive per diem and travel expenses in accordance with:

- (i) Section 63A-3-106;
- (ii) Section 63A-3-107; and
- (iii) rules of the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(b) A commissioner may decline to receive per diem and travel expenses.

(12)(a) The Legislature shall appropriate adequate funds for the Commission to carry out its duties, and shall make available to the Commission such personnel, facilities, equipment, and other resources as the Commission may reasonably request.

(b) The Office of Legislative Research and General Counsel shall provide the technical staff, legal assistance, computer equipment, computer software, and other equipment and resources to the Commission that the Commission reasonably requests.

(c) The Commission has procurement and contracting authority, and upon a majority vote, may procure the services of staff, legal counsel, consultants, and experts, and may acquire the computers, data, software, and other equipment and resources that are necessary to carry out its duties effectively.

Section 6. Section 20A-19-202 is enacted to read:

20A-19-202. Commission Code of Conduct – Quorum – Action by the Commission – Assessment of Proposed Redistricting Plans – Open and Public Meetings – Public Hearings – Ex Parte Communications.

(1) The Commission shall conduct its activities in an independent, honest, transparent, and impartial manner, and each commissioner and member of Commission, including staff and consultants employed or retained by the Commission, shall act in a manner that reflects creditably on the Commission.

(2) The Commission shall meet upon the request of a majority of commissioners.

(3) Attendance of a majority of commissioners at a meeting constitutes a quorum for the conduct of Commission business and the taking of official Commission actions.

(4) The Commission takes official actions by majority vote of commissioners at a meeting at which a quorum is present, except as otherwise provided in this chapter.

(5)(a) The Commission may consider any redistricting plan submitted to the Commission by any person or organization, including commissioners.

(b) The Commission shall make available to each commissioner and to the public all plans or elements of plans submitted to the Commission or to any commissioner.

(6) Upon the affirmative vote of at least three commissioners, the Commission shall conduct the assessments described in Section 20A-19-103(4) of any redistricting plan being considered by the Commission or by the Legislature, and shall promptly make the assessments available to the public.

(7)(a) The Commission shall establish and maintain a website, or other equivalent electronic platform, to disseminate information about the Commission, including records of its meetings and public hearings, proposed redistricting plans, and assessments of and reports on redistricting plans, and to allow the public to view its meetings and public hearings in both live and in archived form.

(b) The Commission's website, or other equivalent electronic platform, must allow the public to submit redistricting plans and comments on redistricting plans to the Commission for its consideration.

(8) The Commission is subject to Title 52, Chapter 4, Open and Public Meetings Act, Secs. 52-4-101 to 52-4-305, and to Title 63G, Chapter 2, Government Records Access and Management Act, Secs. 63G-2-101 to 63G-2-804.

(9)(a) The Commission shall, by majority vote, determine the number, locations, and dates of the public hearings to be held by the Commission, but the Commission shall hold no fewer than seven public hearings throughout the state in connection with each redistricting that is permitted under Section 20A-19-102(1)-(2) as follows:

- (i) one in the Bear River region—Box Elder, Cache, or Rich County;
 - (ii) one in the Southwest region—Beaver, Garfield, Iron, Kane, or Washington County;
 - (iii) one in the Mountain region—Summit, Utah, or Wasatch County;
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- (iv) one in the Central region—Juab, Millard, Piute, Sanpete, Sevier, or Wayne County;
- (v) one in the Southeast region—Carbon, Emery, Grand, or San Juan County;
- (vi) one in the Uintah Basin region—Daggett, Duchesne, or Uintah County; and
- (vii) one in the Wasatch Front region—Davis, Morgan, Salt Lake, Tooele, or Weber County.

(b) The Commission shall hold at least two public hearings in a first or second class county but not in the same county.

(10) Each public hearing must provide those in attendance a reasonable opportunity to submit written and oral comments to the Commission and to propose redistricting plans for the Commission's consideration.

(11) The Commission must hold the public hearings required under Subsection (9) by:

- (a) the earlier of the 120th calendar day after the Legislature's receipt of the results of a national decennial enumeration made by the authority of the United States or August 31st of that year; or
- (b) no later than 120 calendar days after a change in the number of congressional, legislative, or other districts that results from an event other than a national decennial enumeration made by the authority of the United States.

(12)(a) A commissioner may not engage in any private communication with any person other than other commissioners, Commission personnel, including consultants retained by the Commission, and employees of the Office of Legislative Research and General Counsel, that is material to any redistricting plan or element of a plan pending before the Commission or intended to be proposed for Commission consideration, without making the communication, or a detailed and accurate description of the communication including the names of all parties to the communication and the plan or element of the plan, available to the Commission and to the public.

(b) A commissioner shall make the disclosure required by Subsection (12)(a) before the redistricting plan or element of a plan is considered by the Commission.

Section 7. Section **20A-19-203** is enacted to read:

20A-19-203. Selection of Recommended Redistricting Plan.

(1) The Commission shall prepare and, by the affirmative vote of at least five commissioners, adopt at least one and as many as three redistricting plans that the Commission determines divide the state into congressional, legislative, or other districts in a manner that satisfies the redistricting standards and requirements contained in this chapter as the Commission's recommended redistricting plan or plans no later than 30 calendar days following completion of the public hearings required under Section 20A-19-202(9); and

(2)(a) If the Commission fails to adopt a redistricting plan by the deadline identified in Subsection (1), the Commission shall submit no fewer than two redistricting plans to the chief justice of the Supreme Court of the State of Utah.

(b) The chief justice of the Supreme Court of the State of Utah shall, as soon as practicable, select from the submitted plans at least one and as many as three redistricting plans that the chief justice determines divide the state into congressional, legislative, and other districts in a manner that satisfies the redistricting standards and requirements contained in this chapter as the Commission's recommended redistricting plan or plans.

(c) Of the plans submitted by the Commission to the chief justice of the Supreme Court of the State of Utah under Subsection (2)(a), at least one plan must be supported by the commissioner appointed under Section 20A-19-201(3)(f), and at least one plan must be supported by the commissioner appointed under Section 20A-19-201(3)(g).

Section 8. Section **20A-19-204** is enacted to read:

20A-19-204. Submission of Commission's Recommended Redistricting Plans to the Legislature – Consideration of Redistricting Plans by the Legislature – Report Required if Legislature Enacts Other Plan.

(1)(a) The Commission shall submit to the president of the Senate, the speaker of the House of Representatives, and the director of the Office of Legislative Research and General Counsel, and make available to the public, the redistricting plan or plans recommended under Section 20A-19-203 and a detailed written report setting forth each plan's adherence to the redistricting standards and requirements contained in this chapter.

(b) The Commission shall make the submissions described in Subsection (1)(a), to the extent practicable, not less than 10 calendar days before the Senate or the House of Representatives votes on any redistricting plan permitted under Section 20A-19-102(1)-(2).

(2)(a) The Legislature shall either enact without change or amendment, other than technical corrections such as those authorized under Section 36-12-12, or reject the Commission's recommended redistricting plans submitted to the Legislature under Subsection (1).

(b) The president of the Senate and the speaker of the House of Representatives may direct legislative staff to prepare a legislative review note and a legislative fiscal note on the Commission's recommended redistricting plan or plans.

(3) The Legislature may not enact any redistricting plan permitted under Section 20A-19-102(1)-(2) until adequate time has been afforded to the Commission and to the chief justice of the Supreme Court of the State of Utah to satisfy their duties under this chapter, including the consideration and assessment of redistricting plans, public hearings, and the selection of one or more recommended redistricting plans.

(4) The Legislature may not enact a redistricting plan or modification of any redistricting plan unless the plan or modification has been made available to the public by the Legislature, including by making it available on the Legislature's website, or other equivalent electronic platform, for a period of no less than 10 calendar days and in a manner and format that allows the public to assess the plan for adherence to the redistricting standards and requirements contained in this chapter and that allows the public to submit comments on the plan to the Legislature.

(5)(a) If a redistricting plan other than a plan submitted to the Legislature under Subsection (1) is enacted by the Legislature, then no later than seven calendar days after its enactment the Legislature shall issue to the public a detailed written report setting forth the reasons for rejecting the plan or plans submitted to the Legislature under Subsection (1) and a detailed explanation of why the redistricting plan enacted by the Legislature better satisfies the redistricting standards and requirements contained in this chapter.

(b) The Commission may, by majority vote, issue public statements, assessments, and reports in response to:

- (i) any report by the Legislature described in Subsection (5)(a);
- (ii) the Legislature's consideration or enactment of any redistricting plan, including any plan submitted to the Legislature under Subsection (1); or
- (iii) the Legislature's consideration or enactment of any modification to a redistricting plan.

Section 9. Section **20A-19-301** is enacted to read:

Part 3. Private Right of Action for Utahns

20A-19-301. Right of Action and Injunctive Relief.

(1) Each person who resides or is domiciled in the state, or whose executive office or principal place of business is located in the state, may bring an action in a court of competent jurisdiction to obtain any of the relief available under Subsection (2).

(2) If a court of competent jurisdiction determines in any action brought under this Section that a redistricting plan enacted by the Legislature fails to abide by or conform to the redistricting standards, procedures, and requirements set forth in this chapter, the court shall issue a permanent injunction barring enforcement or implementation of the redistricting plan. In addition, the court may issue a temporary restraining order or preliminary injunction that temporarily stays enforcement or implementation of the redistricting plan at issue if the court determines that:

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- (a) the plaintiff is likely to show by a preponderance of the evidence that a permanent injunction under this Subsection should issue, and
- (b) issuing a temporary restraining order or preliminary injunction is in the public interest.
- (3) A plaintiff bringing an action under this Section is not required to give or post a bond, security, or collateral in connection with obtaining any relief under this Section.
- (4) In any action brought under this Section, the court shall review or evaluate the redistricting plan at issue de novo.
- (5) If a plaintiff bringing an action under this Section is successful in obtaining any relief under Subsection (2), the court shall order the defendant in the action to promptly pay reasonable compensation for actual, necessary services rendered by an attorney, consulting or testifying expert, or other professional, or any corporation, association, or other entity or group of other persons, employed or engaged by the plaintiff, and to promptly reimburse the attorney, consulting or testifying expert, or other professional, or any corporation, association, or other entity or group of other persons, employed or engaged by the plaintiff for actual, necessary expenses. If there is more than one defendant in the action, each of the defendants is jointly and severally liable for the compensation and expenses awarded by the court.
- (6) In any action brought under this Section, the court may order a plaintiff to pay reasonable compensation for actual, necessary services rendered by an attorney, consulting or testifying expert, or other professional, or any corporation, association, or other entity or group of other persons, employed or engaged by a defendant, and to promptly reimburse the attorney, consulting or testifying expert, or other professional, or any corporation, association, or other entity or group of other persons, employed or engaged by a defendant for actual, necessary expenses, only if the court determines that:
- (a) the plaintiff brought the action for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
- (b) the plaintiff's claims, defenses, and other legal contentions are not warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; or
- (c) the plaintiff's allegations and other factual contentions do not have any evidentiary support, or if specifically so identified, are not likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.
- (7) Notwithstanding Title 63G, Chapter 7, Governmental Immunity Act of Utah, a governmental entity named as a defendant in any action brought under this Section is not immune from such action or from payment of compensation or reimbursement of expenses awarded by the court under Subsection (5).
- (8) Upon the issuance of a permanent injunction under Subsection (2), the Legislature may enact a new or alternative redistricting plan that abides by and conforms to the redistricting standards, procedures, and requirements of this chapter.
- Section 10. Section **63G-7-301, Governmental Immunity Act of Utah**, is amended to read:
- 63G-7-301. Waivers of immunity.**
- ...
- (2) Immunity from suit of each governmental entity is waived:
- (a) as to any action brought to recover, obtain possession of, or quiet title to real or personal property;
- (b) as to any action brought to foreclose mortgages or other liens on real or personal property, to determine any adverse claim on real or personal property, or to obtain an adjudication about any mortgage or other lien that the governmental entity may have or claim on real or personal property;
- (c) as to any action based on the negligent destruction, damage, or loss of goods, merchandise, or other property while it is in the possession of any governmental entity or employee, if the property was seized for the purpose of forfeiture under any provision of state law;
- (d) subject to Subsection 63G-7-302(1), as to any action brought under the authority of Utah Constitution, Article I, Section 22, for the recovery of compensation from the governmental entity when the governmental entity has taken or damaged private property for public uses without just compensation;
- (e) subject to Subsection 63G-7-302(2), as to any action brought to recover attorney fees under Sections 63G-2-405 and 63G-2-802;
- (f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees Act;
- (g) as to any action brought to obtain relief from a land use regulation that imposes a substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious Land Use Act;
- (h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:
- (i) a defective, unsafe, or dangerous condition of any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or
- (ii) any defective or dangerous condition of a public building, structure, dam, reservoir, or other public improvement; ~~and~~
- (i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment~~]; and~~
- (j) as to any action or suit brought under Section 20A-19-301 and as to any compensation or expenses awarded under Section 20A-19-301(5).

Section 11. Section **63G-2-103, Government Records Access and Management Act**, is amended to read:

63G-2-103. Definitions.

As used in this chapter:

- ...
- (11)(a) "Governmental entity" means:
- (i) executive department agencies of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole, the Board of Examiners, the National Guard, the Career Service Review Office, the State Board of Education, the State Board of Regents, and the State Archives;
- (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;
- (iii) courts, the Judicial Council, the Office of the Court Administrator, and similar administrative units in the judicial branch;
- (iv) any state-funded institution of higher education or public education; or
- (v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or as specified in any other section of this chapter that specifically refers to political subdivisions.
- (b) "Governmental entity" also means:
- (i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (11)(a) that is funded or established by the government to carry out the public's business;
- (ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking; and
- (iii) as defined in Section 11-13a-102, a governmental nonprofit corporation; ~~and~~
- (iv) an association as defined in Section 53A-1-1601~~]; and~~
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(v) the Utah Independent Redistricting Commission.

(c) “Governmental entity” does not include the Utah Educational Savings Plan created in Section 53B-8a-103.

...

Section 12. Section **52-4-103, Open and Public Meetings Act**, is amended to read:

52-4-103. Definitions.

As used in this chapter:

...

(9)(a) “Public body” means any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

(i) any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

(A) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

(B) consists of two or more persons;

(C) expends, disburses, or is supported in whole or in part by tax revenue; and

(D) is vested with the authority to make decisions regarding the public’s business; or

(ii) any administrative, advisory, executive, or policymaking body of an association, as defined in Section 53A-1-1601, that:

(A) consists of two or more persons;

(B) expends, disburses, or is supported in whole or in part by dues paid by a public school or whose employees participate in a benefit or program described in Title 49, Utah State Retirement and Insurance Benefit Act; and

(C) is vested with authority to make decisions regarding the participation of a public school or student in an interscholastic activity as defined in Section 53A-1-1601.

(b) “Public body” includes:

(i) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking; ~~and~~

(ii) as defined in Section 11-13a-102, a governmental nonprofit corporation~~]; and~~

(iii) the Utah Independent Redistricting Commission.

(c) “Public body” does not include:

(i) a political party, a political group, or a political caucus;

(ii) a conference committee, a rules committee, or a sifting committee of the Legislature;

(iii) a school community council or charter trust land council as defined in Section 53A-1a-108.1; or

(iv) the Economic Development Legislative Liaison Committee created in Section 36-30-201.

FISCAL IMPACT ESTIMATE

The Governor’s Office of Management and Budget estimates that the law proposed by this initiative would result in a total fiscal expense of approximately \$1 million.

In addition, the cost of posting information regarding the initiative in Utah’s statewide newspapers and for printing the additional pages in the voter information packet is estimated at \$30,000 in one-time funds.